

CONSTITUTION FOR GOVERNMENT OF BURMA

(Act No. 1 of 1305 B. E.)

An

ACT

to

Enact a scheme for Government of Burma.

The President and members of the Preparatory Commission for Burmese Independence now assembled as a Constituent Assembly hereby decree and enact as follows in exercise, on behalf of the Burmese people, of the sovereign power of legislation which is vested in these people.

The Scheme set forth in the Schedule hereto shall be the Constitution for Government of Burma.

SCHEDULE

The State

1. Burma shall be a fully Independent and sovereign state.
2. Burma shall be a co-equal member of the community of sovereign state forming the Greater East Asia Co-prosperity Sphere.
3. All powers of Government and all authority, legislative, executive *and* judicial are derived from the people and the same shall be exercised in accordance with the provisions hereunder.

HEAD OF THE STATE

4. Burma shall be ruled over by the Head of the State who shall have full sovereign status and powers.
5. Succession to the Headship of the State before a new Constitution comes into operation shall be settled by election, if possible, within thirty days after the occurrence of the vacancy, of the Cabinet of Ministers and the Privy Council assembled in a joint session and presided over either by the President or the Vice-President of the Privy Council or, in their absence, by any member elected by the Privy Council for the purpose.

CABINET OF MINISTERS.

6. There shall be a Cabinet of Ministers presided over by the Prime Minister.
7. The Ministers shall be appointed by the Head of the State on the recommendation of the Prime Minister.
8. The Cabinet of Ministers shall conduct the Government of the State in responsibility, both collectively and individually, to the Head of the State.
9. Ministers of the State shall hold office during the pleasure of the Head of the State.
10. The affairs of Government shall be conducted in accordance with the rules and regulations duly made for the purpose.

PRIVY COUNCIL.

11. There shall be a Privy Council to advise the Head of the State in such matters of public importance as may be referred to them. The following matters shall be referred to the Privy Council:--
(a) Taxation; (b) Annual Budget; (c) National Loans; (d) Ordinary Legislation; (e) Peace Treaties, and such other treaties, conventions and agreements as require ratification before they are ratified. *approved.*
12. The number of Privy Councillors shall be not less than 20 and no more than 25.

13. The Privy Council shall be consultative.
14. The members of the Privy Council shall be appointed by the Head of the State after consultation with the Cabinet of Ministers.
15. The Ministers shall have the right of participation in the session of the Privy Council without being members thereof.
16. There shall be a President and a Vice-President elected by the members of the Privy Council.
17. The qualifications of the Privy Councillors shall be those of the "Elder Statesman" type.
 - (a) The minimum age shall be 40 years.
 - (b) They must have done useful public service or must be persons who on account of special qualifications or attainments are competent to represent important aspects of the nation's life.
18. Subject to the approval of the Head of the State the Privy Council shall make rules for regulating its procedure and for the conduct of its business.

LEGISLATION

19. The responsibility for legislation shall belong to the Head of the State who shall ordinarily exercise it after consultation with the Cabinet of Ministers.
20. In the case of ordinary legislation the Cabinet of Minister shall, before tendering their advice to the Head of the State, first obtain the views of the Privy Council.
21. However in the case of extraordinary legislation the Cabinet of Ministers may act without reference to the Privy Council.

Explanation--Extraordinary legislation means any measure relating to maintenance of public safety or avoidance of public calamity or vital war necessities.
22. All extraordinary legislation restricting civil liberties shall be reviewed as early as practicable after the termination of the war.
23. All the existing law in force in Burma immediately before the commencement of this Act shall, so far as it does not conflict with this Act, continue in force in Burma until altered or amended by competent authority.

FUNDAMENTAL RIGHTS OF BURMESE NATIONALS.

24. The liberty of the person shall be inviolable and no Burmese national shall be deprived of his personal liberty except in accordance with law.

25. No Burmese national shall be deprived of his property except in accordance with law.
26. The dwelling of every Burmese national is inviolable and shall not be forcibly entered except in accordance with law.
27. Every Burmese national shall, subject to public order and morality, enjoy freedom of religious belief and practice.
28. Every Burmese national shall, within the limits of law and morality, have the right of free expression of opinion as well as the right to assemble peaceably and without arms and the right to form associations or unions.
JUDICIARY.
29. The Supreme Court of Burma now in existence shall continue and shall be the highest Court of Record. It shall consist of a Chief Justice and such number of other Judges as the Head of the State may deem it necessary to appoint.
30. The administration of law and justice and its machinery shall be in accordance with the laws in force.
31. (a) The Chief Justice of the Supreme Court shall be appointed by the Head of the State after consultation with either the Prime Minister or the Minister concerned.
(b) Other Judges shall be appointed by the Head of the State after consultation with either the Prime Minister or the Minister concerned and the Chief Justice.
32. The Judges of the Supreme Court shall not be removed except for proved misbehaviour or infirmity of mind or body.
Explanation.--Misbehaviour includes misbehaviour towards the State.
33. All Judges shall be independent in the exercise of their judiciary functions and shall be subject only to the laws in force.
34. The decision of the Supreme Court shall in all cases be final and conclusive.
35. Judges and Magistrates shall have jurisdiction over all persons within their territorial jurisdiction regardless of their nationality except--
 - (a) those who enjoy extraterritoriality under Public International law;
 - (b) members of the Burmese armed forces in respect of offences punishable by military court; and
 - (c) members of allied armed forces in respect of military offences for trial of which provision to the contrary has been made under any treaty or agreement between the Burmese Government and the Nippon Government.

LANGUAGE.

36. Burmese shall be the official language of the new State of Burma

STATE SERVICES

37. All appointments in the services of the State shall be derived from the Head of the State.
38. There shall be a State Services Board, the Chairman and other members whereof shall be appointed by the Head of the State after consultation with the Cabinet of Ministers.
39. The Head of the State shall, by regulations made after consultation with the Cabinet of Ministers, determine the number of members of the Board, their tenure of office and their conditions of service.
40. The Board shall be responsible to the Head of the State.
41. The Board shall deal with such matters relating to the State Services as are delegated to them under the rules and regulations duly made for the purpose.
42. The Board shall be independent in the exercise of its proper functions and duties.
43. All Burmese nationals who are in Government or Municipal service on the day of the inauguration of Burmese Independence shall be deemed to have been appointed on the same terms and conditions of service in the new State subject to their taking the oath of allegiance to the new State on a day which is to be fixed for the purpose by the Head of the State soon after the inauguration of Independence.

AUDIT AND ACCOUNTS.

44. There shall be an Auditor-General of Burma who shall be appointed by the Head of the State after consultation with either the Prime Minister or the Minister concerned.
45. The conditions of service of the Auditor-General shall be such as may be prescribed by the Head of the State after consultation with the Prime Minister or the Minister concerned, and he shall not be eligible for further office in Burma after he has ceased to hold his office without the approval of the Head of the State.
46. The accounts of the Government of Burma shall be kept in such form as the Auditor-General may, with the approval of the Head of the State, prescribe.

47. The reports of the Auditor-General relating to the accounts of the Government of Burma shall be submitted to the Head of the State who shall cause them to be laid before the Cabinet of Ministers and the Privy Council.

ARMED FORCES.

48. The Head of the State shall be the Supreme Commander-in-Chief of the Burmese Armed Forces.
49. There shall be a War Minister directly responsible to the Head of the State for Organization, Administration and Training of the Armed Forces.
50. All commissions in the Burmese Armed Forces shall be granted by the Head of the State on the recommendation of the War Minister.
51. The Supreme Commander-in-Chief shall be advised by a Supreme Military Council in all military affairs. It shall consist of the War Minister, the Chief or Chiefs of General Staff, the Vice War Minister, the Chief of the Military Bureau of the War Ministry, the Director of Training and such other members of the armed forces as may be added on by the Council. The Prime Minister or any Minister representing him, the Finance Minister and either the President or the Vice-President of the Privy Council shall have the right to speak in, and otherwise to take part in the proceedings of the Council without the right to vote.
52. The Chief of the General Staff concerned shall be responsible for the Executive Military Command of his branch of the armed forces.
53. The War Minister shall have the power to inspect the General Staff or Staffs and the troops and other forces under their command.
54. (a) With a view to ensuring the stability of the State, the Armed Forces shall be outside politics.
(b) The War Minister shall be appointed always from among high military officers on the active list.
55. The military accounts shall be audited by a Special Auditing Board directly under the Head of the State.

CONSTITUENT BODY

56. A Constituent Body shall be convened by the Head of the State, if war conditions permit, not later than one year after the inauguration of Burmese Independence, and in any case not later than one year after the termination of the war.
57. The Constituent Body shall be so constituted as to be truly representative of the Burmese people and of its opinion.

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58. The Head of the State shall appoint the members of the Constituent Body and settle all other matters relating thereto in consultation with the Cabinet of Ministers and the Privy Council.

Explanation.--"In consultation" is equivalent to "after consultation" except that it will ensure a more thorough and mutual consultation.

59. The Constituent Body shall elect its own Chairman and make rules for the regulation of its business and procedure.
60. The Constituent Body shall determine all matters relating to the constitution of Independent Burma and in doing this it shall have all the powers and duties of a Constituent Body including the power to institute a referendum on questions relating to the Headship of the State. It shall also be free to act independently of all outside influence.
61. There shall be freedom of speech in the Constituent Body and no member thereof shall be liable to any proceedings in any Court in respect of anything said or any vote given by him in the Body or any Committee thereof and no person shall be so liable in respect of the publication by, or under the authority of, the Head of the State of any report, paper, votes or proceedings.
62. The Constituent Body shall determine the period within which a new Constitution shall come into operation and the rule of the new Head of the State shall commence.
63. The rule of the Head of the State shall terminate with the coming into operation of a new Constitution under the foregoing sections and the tenure of office of all Ministers and Privy Councillors shall terminate therewith.
64. The new State of Burma shall be administered in accordance with this Constitution until such time as a new Constitution comes into operation under the foregoing sections:

Provided that this Constitution may be amended by legislation with the consent of (a) the Cabinet of Ministers and (b) two-thirds majority at a special session of the Privy Council attended by not less than three-quarters of the members for the time being.

(Sd.) BA MAW,
President,

Rangoon, the 1st August 1943. Burma Constituent Assembly.
D.S.P.P.B.-No.63,J.D.,11-4-44--502--VIII.

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Nº. 1

緬甸國憲法

(一三〇五 B. E 法律第一號)

緬甸國統治組織法

憲法制定議會よりして現ニ會同セル緬甸國獨立準備委員會議長並ニ委員ハ緬甸國國民ニ代リ國民ニ屬スル最高ノ立法權ヲ行使シ、茲ニ左ノ法律ヲ制定公布ス

本條目ニ揭ケル組織ヲ以テ緬甸國憲法ト定ム

條目

國家

- 一、緬甸國ハ完全ナル獨立主權國家タルベシ
- 二、緬甸國ハ大東亞共榮圈ヲ構成スル主權國家ニ伍ス同權ノ一國タルベシ
- 三、全統治權並ニ立法、行政、司法ノ全權能ハ國民ニ由來シ下記條文ニ準據シ行使セラルベシ

元首

- 四、緬甸國ハ完全ナル元首タル地位ト主權トヲ保持スル元首之ヲ統治ス
- 五、新憲法施行前ニ於テハ元首、地位、繼承ハ空位ヲ生ジタルトキヨリ成ルベク二十日以内ニ樞密院議長又ハ同副議長並ニ兩者缺席シタル場合ハ樞密院ヨリ特ニ選ハルル議員ヲ議長トスル内閣ニヒ樞密院ノ合同會議ニヨリ選出ニヨリ之ヲ定ム

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内閣

- 六、内閣總理大臣ヲ首班トスル内閣ヲ置ク
- 七、内閣各大臣ハ總理大臣ノ推薦ニ基キ元首之ヲ任命ス
- 八、内閣ハ元首ニ對シ一體又個々ニ責任ヲ負ヒ國家統治ノ任ニアタリモトス
- 九、國務大臣ハ元首ノ知遇ヲ受ル閣員ノ任ニアタリモトス
- 十、統治ノ諸事項ハ定メラルル成規ノ法令ニ準據シ之ヲ處理スベキモノトス

樞密院

- 十一、樞密院ヲ置キ諮詢ヲ要スル命令ノ要務ニ付キ元首ヲ輔弼セシム
- 樞密院ニ諮詢スベキ事項左ノ如シ
 - (一) 租税
 - (二) 歲計豫算并
 - (三) 國債
 - (四) 通商并主權
 - (五) 媾和條約
- 其、他承認所ニ批准ヲ要スル條約、協定、協定
- 十二、樞密院議員、數ハ二十名以上二十五名以内トス
- 十三、樞密院ハ諮詢機關タルベキモノトス
- 十四、樞密院議員ハ内閣ト協議、ト元首之ヲ任命ス
- 十五、各大臣ハ樞密院ニ議席ヲ有スルコトナク院議ニ參與スル權限ヲ有ス
- 十六、樞密院議員ハ選舉ニヨリ議長並ニ副議長ヲ置ク

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No. 3

十七 樞密院議員、資格は、つゞち格トス

(イ) 最低年令、ヲ四十才トス

(ロ) 有益ナル公務ニ服セル経験アリ者ナルカ
或ハ特別ナル資格又ハ學識ヲ有スルノ
故ヲ以テ國民生活、重要方面ヲ代表スル
資格アリ者タルベシ

十八 樞密院ハ元首、承認ヲ受ケ其ノ手續ヲ定メ
其ノ事務ヲ執行スルニ爲規定ヲ設ケベシ

立法

十九 立法ノ責任ハ通常ハ内閣ト協議ノ上立法
權ヲ行使スル元首ニ屬スルモノトス

二十 通常立法、場合ニ於テハ内閣ハ元首ニ進
言スルニ先立テ樞密院ノ意見を求ムベシ

二十一 但シ特別立法、場合ニ於テハ内閣ハ樞密院
諮問セズシテ行動スルヲ得

説明——特別立法トハ、公共安寧、維
持或ハ公共災害ノ防止 或ハ緊急軍事
必要ニ關スル處置ニ主スル時ナ

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No. 3

十七 樞密院議員、資格は、(一)之を、格トス

(二) 最低年令、ヲ四十才トス

(三) 有益ナル公務ニ服セル経験アリ者ナルカ
或ハ特別ナル資格又ハ學識ヲ有スル、
故ヲ以テ國民生活、重要方面ヲ代表スル
資格アリ者タルベシ

十八 樞密院ハ元首、承認ヲ受ケ其ノ手續ヲ定メ
其ノ事務ヲ執行スルニ爲規定ヲ設ケベシ

立法

十九 立法ノ責任ハ通令、内閣ト協議ノ上立法
權ヲ行使スル元首ニ屬スルモノトス

二十 通令ニ立法、場合ニ於テハ内閣ハ元首ニ進
言スルニ先立テ樞密院ノ意見ヲ求ムベシ

二十一 但シ特別立法ノ場合ニ於テハ内閣ハ樞密院
諮問セズシテ行動スルヲ得

説明——特別立法ハ、今昔安寧、維
持或ハ公衆災害ノ防止 或ハ緊急軍事
必要ニ關スル處置ニ關スルモノ

(三頁ニ流リ)

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No. 3

十七 樞密院議員、資格は、之を、格トス

(イ) 最低年令、ヲ四十才トス

(ロ) 有益ナル公務ニ服セル経験アリ者ナリカ
或ハ特別ナル資格又ハ學識ヲ有スルノ
故ヲ以テ國民生活、重要方面ヲ代表スル
資格アリ者タルベシ

十八 樞密院ハ元首、承認ヲ受ケ其ノ手續ヲ定メ
其ノ事務ヲ執行スルニ爲規定ヲ設ケベシ

立法

十九 立法ノ責任ハ通常ハ内閣ト協議ノ上立法
權ヲ行使スル元首ニ屬スルモノトス

二十 通常ノ立法、場合ニ於テハ内閣ハ元首ニ進
言スルニ先立テ樞密院ノ意見ヲ求ムベシ

二十一 但シ特別ニ立法、場合ニ於テハ内閣ハ樞密院
諮問セズシテ行動スルヲ得

説明——特別ニ立法トハ、例共安寧、維
持或ハ公共災害ノ防止、或ハ緊急軍事
必要ニ關スル處置ニ關スル場合ナリ

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三十二公民ノ自由ヲ制限スルルニ特別立法ハ戰爭終了後ニ於テ之ヲ
可及的速カニ再検討スベキモノトス

三十三本法施行ノ直前ニ於テ緬甸國內ニ実施サレツアル全現行法ハ本法
ニ抵触セサル限り管轄官廳ニヨリ變更或ハ修正セラルルマデ緬
甸國ニ於ケル實施繼續セラルモノトス

緬甸國民ノ基本的權利

三十四個人ノ自由ハ侵害スベカラズ而シテ如何ナル緬甸國人モ法律ニ依ラザル
限り個人ノ自由ヲ奪ハルノ事ナカルベシ

三十五如何ナル緬甸國人モ法律ニ依ル外其ノ財産ヲ奪ハルノ事ナカルベシ

三十六緬甸國人ノ家宅ハ侵スベカラズ又法律ニ依ル外強制的ニ侵入スベカラズ

三十七如何ナル緬甸國人モ宗教信仰及慣習ノ自由ヲ享有シ得ベシ

但右ハ公共ノ秩序ト道德ニ從フベキモノトス

三八如何ナル緬甸國人モ法律並ニ道德ノ範圍内ニ於テ平和裡ニ且武
器ヲ持タズシテ集會シ又團體或ハ組合ヲ結成スルノ權利ヲ
有スルト同時ニ意見ノ自由發表ヲナス權利ヲ有スルモノトス

司法

三十九現存ノ緬甸大審院ハ續イテ最高司法審判所タルベシ右ハ人
ノ大審院長並ニ元首ニ於テ任命必要ヲ認メタル數ノ他裁判官
ヨリ成ルモノトス

四十法律及裁判並ニ其ノ機關ノ統轄ハ現行法ニ從フベシ

四十一大審院長ハ内閣總理大臣或ハ關係大臣ト協議シ上元首之
ヲ任命ス

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四、裁判官、内閣總理大臣或ハ關係大臣及ハ大審院長、
協議、ニ元旨之ヲ奉ス

五、大審院、判事、證據等、不行續若シハ心算上、虛弱
ニテザル限リ、解任スルコトヲ得ス

該明、不行續ハ、國家ニ對スル不行續ヲ包含ス、トス

六、凡テ、判事、自己、司法職務ヲ行使スルニ於テ自主的、トザルベカラ
ズ、且、現行法、ニ従フモノトス

七、凡テ、場合、於テ大審院判決、最後の且、決定的、トモ、トス

八、判事及シテ、判事、自己、管轄ニ域内、於テ國籍、如何、
問、凡テ、人間、對テ、管轄權、有テ、區ニテ、場、ザルモノハ、此、
限、ニテ、ラズ

九、國際公法ニ基テ、非外法權、ヲ有スル者

一〇、緬甸國軍隊ニ屬スル者ニテ、軍法會議ニ依リ、罰ヤ、コルベキ
犯罪ヲ犯シタリテ、

一一、盟約國軍隊ニ屬スル者ニテ、緬甸國政府、日本國政府間ニ
締結サレタル凡テ、條約及シテ、協約ニ基テ、其、限リ、ニアラズ、
且、規定、ラレタル軍事犯罪、ヲ犯シタリテ、

言語

一二、緬甸語ヲ以テ、緬甸國新政府、公用語トス

國家公務

一三、國家公務ニ對シテ、凡テ、命令、及シテ、法律、ニ従フモノトス

一四、國家公務院ヲ設立シ、會長及シテ、委員、ハ、同國ト、協議、ニ、天旨
ニ、テ、奉ス

一五、内閣、協議ニ決定シ、且、規定、スル公務院、會長、及シテ、職務、
條件等、天旨ニ、テ、奉ス

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軍 隊

- 四八. 元首、編制國軍隊、最高司令官、
- 四九. 陸軍大臣、陸軍、編制、統轄、訓練、國、直轄、元首、特別委任、員、トス
- 五〇. 編制國軍隊、凡、職權、陸軍大臣、陸軍、依、元首之、認可、
- 五一. 最高司令官、凡、軍務、關、最高軍事會議、助言ヲ受ク、トス、最高軍事會議、陸軍大臣、參謀部長、若シ、長官、陸軍次官、陸軍省軍務局長、教育總監、其他會議、參加、此、タル軍人、成、總理大臣、若シ、之ヲ代表、他、大臣、大藏大臣、及、樞密院議長、若シ、副議長、發言權ヲ有、或、議決權ヲ有セ、會議、進行ニ參加、ス、事、得、
- 五二. 關係參謀長、自己、軍管轄内ニ於ケル軍事命令執行、責任ヲ有、トス
- 五三. 陸軍大臣、參謀部、及、其、ニ、隸屬セル軍隊、ヲ、檢閲、ス、權、限ヲ有、ス
- 五四. (一) 國家ノ安定ヲ保護、ス、爲、軍隊ノ政治ニ干與セ、トス、
- (二) 陸軍大臣、必、現役、高官、ヨリ、之ヲ任命、ス、トス、
- 五五. 軍事勘定、直屬、元首、下ニ、特別會計、検査局、ヲ、設置、ス、トス

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憲法制定機關

- 五十六. 憲法制定機關ハ若シ戦争状態ヲ許ス限リ、緬甸國
独立同盟ヨリ十年以内ニ、又ハ如何ナル場合ニ於テモ戰
争終結後十年以内ニ元首ニ依リ召集セラルモノトス
- 五十七. 憲法制定機關ハ緬甸國民及ヒ緬甸國國民ノ意見ヲ
眞ニ代表スル機關タルベシ

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平八 元首、内閣及び樞密院ニ協議、ニ憲法制定機関、議員
ヲ任命シ且是ニ関スル諸事項ヲ決定スル
説明―協議、上ト、協議、後、裁キ、但一層完全ニ
相互協議ヲ經タル場合、此、限リニアラス

平九 憲法制定機関、其、議長ヲ選定シ其、職務及び手續
用、規定ヲ定ムルモトス

平一〇 憲法制定機関、独立編制國、憲法ニ関スル一切事項ヲ決定ス
十二箇ノ同機関、元首、地位ニ関スル諸問題ニ對スル國民投票
ヲ定ムル權限ヲ合シ憲法制定機関トシ、凡レ權能及シ裁權
ヲ有スル、トス同機関、又一切事務ヲ掌ルコトヲ行動スル、自由ヲ有ス

平一一 憲法制定機關内ニ於テ言論自由トス同議員、何人ト雖モ同機關若シ
久其、在員會ニ於ケル發言又其、為セル投票ニ關シテ許追セラルコトナ
又何人ト雖モ元首ニ依ル若シ、其、權限依ル凡テ、報告書類投票及
議事録、公表ニ關シ許追セラルコトナシ

平一二 憲法制定機關、新憲法實施、時期及新元首、統治開始、時期決定ス

平一三 前諸項ニ基テ新憲法實施、時ヨリ元首、統治、後、是、上、今、三、金、院
議員、在戰期間モ終了スルモトス

平一四 新編制國、前諸項ニ基テ新憲法、實施、三、上、本、憲法、從、統治、
ルルモトス

但シ本憲法、三、上、當リ、内閣及同議員數、令、三以上ニ席セ
樞密院特別會議ニ於ケル三令ニ多數、承諾ヲ得ル立法依リ修正ヲ施ス
コトヲ得

「ハ、モ」 (署名)
編制國憲法制定議會議長
一九四三年(昭和十八年)八月一日「フ、グ、」
D.S.P.P.B. 第六三丁、D-1 四-四-五〇二-VIII